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10/569,174	02/22/2006	Nathalie Dorothee Pietercel Leurs	NL 031040	2013
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EXAMINER				
HANCE, ROBERT J				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/569,174

**Applicant(s)**

LEURS ET AL.

**Examiner**

ROBERT HANCE

**Art Unit**

2421

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments filed 07/16/2008 have been fully considered but they are not persuasive.

Regarding Applicant's argument on page 5 of the Remarks, with respect to claim 1, that Agnihotri fails to disclose "enabling to use a profile of the user for control of processing the content information for the purpose of personalizing the rendering during play-out of the content information," Examiner respectfully disagrees. Agnihotri teaches personalizing the program which is displayed to a viewer, where this personalization is based on profiles and biometric data. This is achieved by processing the content information (the broadest reasonable interpretation of the term "content information" being the broadcast programming received at a user site) to determine an alternative program with the highest recommendation score based on user profiles (Paragraphs 21-22), and personalizing the rendering during play-out of the content information (Paragraphs 17-19, 21-22, 24-25 - during play-out of the content information (i.e. while a user is watching broadcast programming), the program which is displayed on the television is personalized (the channel is changed to an alternative program chosen for a particular user, based on that user's profile, and this channel is rendered on the television), therefore the rendering of the content information is personalized).

Regarding Applicant's argument on page 5 of the Remarks with respect to claims 8 and 11, Examiner respectfully disagrees for reasons stated above.

Regarding Applicant's argument on page 5 of the Remarks with respect to claims 2, 4, 5 and 9, Examiner respectfully disagrees for reasons stated above.

Regarding Applicant's argument on page 6 of the Remarks with respect to the 103(a) rejections of claims 3, 6, 7 and 10, Examiner respectfully disagrees for reasons stated above.

2. The well-known in the art statements applied to claim 7 is taken to be admitted prior art due to applicant's failure to traverse Examiner's assertion of official notice.

#### ***Claim Rejections - 35 USC § 101***

Claims 1-7 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing (Reference the May 15, 2008 memorandum issued by Deputy Commissioner for Patent Examining Policy, John J. Love, titled "Clarification of 'Processes' under 35 U.S.C. 101"). The instant claims neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 4-5, 8-9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Agnihotri et al., US Pub No 2002/0178440.

**As to claim 1** Agnihotri et al. disclose a method of enabling to render mass-market content information to a user, the method comprising enabling to use a profile of the user for control of processing the content information for the purpose of personalizing the rendering during play-out of the content information (Paragraphs 17-19, 21, 25; Fig. 3A-3C – profiles and biometric data are used to generate recommendations, thus the content is personalized for the particular user).

**As to claim 2** Agnihotri et al. disclose the method of claim 1 wherein the profile comprises a dynamic part with biometric information about the user (Paragraph 17-19 – as per applicant's disclosure, paragraph 5, visual cues are considered biometric information).

**As to claim 4** Agnihotri et al. disclose the method of claim 1, wherein the profile comprises information about a current activity of the user (Paragraph 18; Fig. 4).

**As to claim 5** Agnihotri et al. disclose the method of claim 1, wherein the profile comprises a static part based on: history of the user, declared interest, a declared preference (Fig. 3A-3B; Paragraphs 25-28).

**As to claim 8** Agnihotri et al. disclose a consumer electronics system for rendering mass-market content information to a user, the system comprising: a memory for storing a user profile (Fig. 1:110; Paragraph 25; claim 16); and a controller coupled to the memory for controlling a processing of the content for the purpose of personalizing the rendering during play-out of the content, under control of the profile (claim 16; Paragraphs 17-21; Paragraph 30-32; Fig. 4).

**As to claim 9** Agnihotri et al. disclose the system of claim 8, further comprising: a sensor for sensing a current biometric attribute of a user (Fig. 1: 150-1 – 150-N capture visual and auditory signals; Paragraph 18. As per applicant's disclosure, paragraph 5, visual cues are considered biometric information); an interpreter coupled to the sensor and the memory for interpreting an output signal from the sensor within the context of the profile (Paragraphs 20-22; Fig. 1: see processor 120, viewer profiles 300).

**As to claim 11** see similar rejection to claim 1. The control software of claim 11 corresponds to the method of claim 1. Therefore, claim 11 has been analyzed and rejected.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Agnihotri et al., US Pub No 2002/0178440 in view of Hoffberg et al., US Patent No 5,875,108.

**As to claim 3** Agnihotri et al. disclose the method of claim 2, comprising acquiring the biometric information via a sensor (Paragraphs 17-18; Fig. 1: 150-1 – 150-N).

Agnihotri et al. fail to disclose that the sensor is coupled to the user. However, in an analogous art, Hoffberg et al. disclose adjusting user preferences by measuring certain biometric values, such as heart rate, blood pressure, etc (col. 34 lines 34-50). It would have been obvious to one of ordinary skill in the art at the time of the invention to use the biometric measuring system disclosed by Hoffberg et al. in the system of Agnihotri et al. The rationale for this combination would have been to take into account factors other than visual and auditory signals. All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

5. Claims 6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Agnihotri et al., US Pub No 2002/0178440 in view of Kowald, US Pub No 2003/0002715.

**As to claim 6** Agnihotri et al. fail to disclose providing metadata indicative of a mood affecting aspect of the content; and enabling to match the metadata against the profile for the control of the processing. However, in an analogous art, Kowald discloses providing metadata indicative of a mood affecting aspect of the content (Paragraph 45). It would have been obvious to one of ordinary skill in the art at the time of the invention to use the metadata as disclosed by Kowald in the system of Agnihotri et al. and to match the metadata against the profile for the control of the processing. The rationale for this combination would have been to decide if a scene is suited to a viewer who is in a particular emotional state. All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

**As to claim 10** see similar rejection to claim 6. The system of claim 10 corresponds to the method of claim 6. Therefore, claim 10 has been analyzed and rejected.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Agnihotri et al., US Pub No 2002/0178440.



**As to claim 7** Examiner takes official notice of the fact that storing content for personalized rendering later on was well known in the art at the time of the invention.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT HANCE whose telephone number is (571)270-5319. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John W. Miller/  
Supervisory Patent Examiner, Art Unit 2421

ROBERT HANCE  
Examiner  
Art Unit 2421

/ROBERT HANCE/

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